


MEMORANDUM

DATE: May 22, 2020
TO: All City Employees
FROM:  Aaron Donato, Labor Relations Manager
SUBJECT: **Distracted Driving – Compliance with
California Vehicle Code § 23123.5**

The purpose of this memorandum is to ensure that employees are aware of, and compliant with, [California Vehicle Code \(CVC\) § 23123.5](#) which is intended to prevent distracted driving.

Specifically, CVC § 23123.5 prohibits drivers from “[driving] a motor vehicle while holding and operating a handheld wireless telephone or an electronic wireless communications device” unless it is being used in a “voice operated” and “hands free” manner.

Further, California state law requires that handheld or electronic wireless telephone and communications devices be mounted to a vehicle’s windshield in a manner consistent with [CVC § 26708](#) and that any features or functions be made with a “single swipe or tap of the driver’s finger.” This applies to all features of a cell phone, including the use of popular navigating systems.

Employees are required to comply with all laws and City policies while driving in the course and scope of their duties. A failure to comply may result in discipline, up to and including termination of employment.

Attachments: CVC § 23123.5
CVC § 26708(b)(12)

California Vehicle Code section 23123.5

- (a) A person shall not drive a motor vehicle while holding and operating a handheld wireless telephone or an electronic wireless communications device unless the wireless telephone or electronic wireless communications device is specifically designed and configured to allow voice-operated and hands-free operation, and it is used in that manner while driving.
- (b) This section shall not apply to manufacturer-installed systems that are embedded in the vehicle.
- (c) A handheld wireless telephone or electronic wireless communications device may be operated in a manner requiring the use of the driver's hand while the driver is operating the vehicle only if both of the following conditions are satisfied:
 - (1) The handheld wireless telephone or electronic wireless communications device is mounted on a vehicle's windshield in the same manner a portable Global Positioning System (GPS) is mounted pursuant to paragraph (12) of subdivision (b) of Section 26708 or is mounted on or affixed to a vehicle's dashboard or center console in a manner that does not hinder the driver's view of the road.
 - (2) The driver's hand is used to activate or deactivate a feature or function of the handheld wireless telephone or wireless communications device with the motion of a single swipe or tap of the driver's finger.
- (d) A violation of this section is an infraction punishable by a base fine of twenty dollars (\$20) for a first offense and fifty dollars (\$50) for each subsequent offense.
- (e) This section does not apply to an emergency services professional using an electronic wireless communications device while operating an authorized emergency vehicle, as defined in Section 165, in the course and scope of his or her duties.
- (f) For the purposes of this section, "electronic wireless communications device" includes, but is not limited to, a broadband personal communication device, a handheld device or laptop computer with mobile data access, or a pager.

(Amended by Stats. 2017, Ch. 297, Sec. 1. (AB 1222) Effective January 1, 2018.)

California Vehicle Code section 26708(b)(12)

(12) A portable Global Positioning System (GPS), which may be mounted in a seven-inch square in the lower corner of the windshield farthest removed from the driver or in a five-inch square in the lower corner of the windshield nearest to the driver and outside of an airbag deployment zone, if the system is used only for door-to-door navigation while the motor vehicle is being operated